

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SAMUEL DAVIS EVERSON III,

Defendant.

CR 13–77–BLG–DWM

ORDER

United States Magistrate Judge Carolyn S. Ostby entered Findings and Recommendation in this matter on November 12, 2013. Neither party objected and therefore they are not entitled to *de novo* review of the record. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

This Court will review the Findings and Recommendation for clear error.

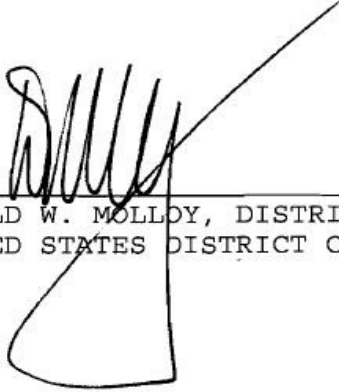
McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Ostby recommended this Court accept Samuel Davis Everson III's guilty plea after Everson appeared before her pursuant to Federal Rule of Criminal Procedure 11, and entered his plea of guilty to Possession with Intent to Distribute Methamphetamine in violation of 21 U.S.C. § 841(a)(1), as charge in the Superseding Information.

I find no clear error in Judge Ostby's Findings and Recommendation (Doc. 26), and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS ORDERED that Samuel Davis Everson III's motion to change plea (Doc. 16) is GRANTED.

DATED this 2nd day of December, 2013.



DONALD W. MOLLOY, DISTRICT JUDGE
UNITED STATES DISTRICT COURT